

**BAKER BOTTS L.L.P.**

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Attorneys for Defendants and Counterclaimants  
AT&T MOBILITY LLC and AT&T MOBILITY II LLC

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

ENOVSYs LLC,

Plaintiff,

vs.

AT&T MOBILITY LLC and AT&T  
MOBILITY II LLC,

Defendants.

AT&T MOBILITY LLC and AT&T  
MOBILITY II LLC,

Counterclaimants,

vs.

ENOVSYs LLC,

Counterdefendant.

Case No.: 2:11-CV-05210-DDP (AGRx)

**DEFENDANTS AT&T MOBILITY  
LLC AND AT&T MOBILITY II  
LLC'S COUNTERCLAIMS  
AGAINST PLAINTIFF ENOVSYs**

D-3

**JURY TRIAL DEMANDED**

**BY FAX**

FILED  
2011 NOV -4 PM 2:40  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

1 Defendants AT&T Mobility LLC and AT&T Mobility II LLC (collectively  
2 “AT&T Mobility”) file their Counterclaims on Enovsys LLC (“Enovsys”), and  
3 state as follows:  
4

### 5 **COUNTERCLAIMS**

6 1. AT&T Mobility LLC is a Delaware limited liability company with its  
7 principal place of business at 1025 Lenox Park Blvd. NE, Atlanta, GA 30319-  
8 5309.

9 2. AT&T Mobility II LLC is a Delaware limited liability company with  
10 its principal place of business at 1025 Lenox Park Blvd. NE, Atlanta, GA 30319-  
11 5309.

12 3. Based on information and belief, Enovsys is a California limited  
13 liability company with its principal place of business in Los Angeles, CA.

14 4. Enovsys claims to be the owner of the ‘461 Patent and the ‘273  
15 Patent.

16 5. This is an action for a declaration that each and every claim of the  
17 Asserted Patents are invalid and not infringed pursuant to the Patent Laws of the  
18 United States, 35 U.S.C. § 101, et seq. Accordingly, subject matter jurisdiction of  
19 this Court exists under the Federal Declaratory Judgment Act, Title 28, United  
20 States Code §§ 2201 and 2202, and under Title 28, United States Code §§ 1331  
21 and 1338(a).

22 6. An actual, substantial and continuing justiciable controversy exists  
23 between AT&T Mobility LLC and AT&T Mobility II LLC (collectively, “AT&T  
24 Mobility”), and Enovsys, with respect to which AT&T Mobility requires a  
25 declaration of its rights by this Court. Specifically, the controversy relates to the  
26 invalidity and non-infringement of the Asserted Patents and to Enovsys’s right to  
27 threaten and/or maintain a suit against AT&T Mobility for alleged infringement of  
28 the Asserted Patents. Enovsys has chosen this venue to enforce its patents. Venue

1 is proper in this Court and judicial district for counterclaims, pursuant to 28 U.S.C.  
2 §§ 1391 and 1400(b).

3 7. AT&T Mobility brings the following counterclaims against Enovsys:

4  
5 **Declaratory Judgment of Non-Infringement of the '461 Patent**

6 8. AT&T Mobility realleges and incorporates by reference the  
7 allegations of paragraphs 1-7 as though fully set forth herein.

8 9. This is an action for declaratory judgment of non-infringement of any  
9 and all valid and enforceable claims of the '461 Patent.

10 10. Enovsys has alleged that AT&T Mobility has and is infringing  
11 directly and/or by inducing or contributing to the infringement of one or more  
12 claims of the '461 Patent, that such alleged infringement has thereby damaged  
13 Enovsys and, unless enjoined, will continue to damage Enovsys.

14 11. AT&T Mobility has not willfully or otherwise infringed, contributed  
15 to the infringement of, or induced others to infringe, and does not willfully or  
16 otherwise infringe, contribute to the infringement of, or induce others to infringe,  
17 any valid and enforceable claim of the '461 Patent, either directly or indirectly,  
18 either literally or under the doctrine of equivalents.

19 12. There is an actual controversy, within the meaning of 28 U.S.C. §§  
20 2201 and 2202, between AT&T Mobility and Enovsys as to whether AT&T  
21 Mobility has infringed or infringes any valid and enforceable claim of the '461  
22 Patent.

23 13. AT&T Mobility requests a judicial determination and declaration of  
24 the respective rights and duties of the parties on the disputes recited in paragraphs  
25 0-12 above. Such a determination and declaration are necessary and appropriate at  
26 this time so that the parties may ascertain their respective rights and duties in this  
27 regard.  
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**Declaratory Judgment of Invalidity of the '461 Patent**

14. AT&T Mobility realleges and incorporates by reference the allegations of paragraphs 1-13 as though fully set forth herein.

15. This is an action for declaratory judgment of invalidity of all claims of the '461 Patent.

16. The '461 Patent, and each claim thereof, is invalid for failure to comply with one or more of the requirements of Title 35, United States Code, including but not limited to 35 U.S.C. §§ 101, 102, 103 and/or 112.

17. There is an actual controversy, within the meaning of 28 U.S.C. §§ 2201 and 2202, between AT&T Mobility and Enovsys as to whether there exists any valid claim of the '461 Patent.

18. AT&T Mobility requests a judicial determination and declaration of the respective rights and duties of the parties on the disputes recited in paragraphs 14-17 above. Such a determination and declaration are necessary and appropriate at this time so the parties may ascertain their respective rights and duties in this regard.

**Declaratory Judgment of Non-Infringement of the '273 Patent**

19. AT&T Mobility realleges and incorporates by reference the allegations of paragraphs 1-18 as though fully set forth herein.

20. This is an action for declaratory judgment of non-infringement of any and all valid and enforceable claims of the '273 Patent.

21. Enovsys has alleged that AT&T Mobility has and is willfully or otherwise infringing directly and/or by inducing or contributing to the infringement of one or more claims of the '273 Patent, that such alleged infringement has thereby damaged Enovsys and, unless enjoined, will continue to damage Enovsys.

1           22. AT&T Mobility has not willfully or otherwise infringed, contributed  
2 to the infringement of, or induced others to infringe, and does not willfully or  
3 otherwise infringe, contribute to the infringement of, or induce others to infringe,  
4 any valid and enforceable claim of the '273 Patent, either directly or indirectly,  
5 either literally or under the doctrine of equivalents.

6           23. There is an actual controversy, within the meaning of 28 U.S.C. §§  
7 2201 and 2202, between AT&T Mobility and Enovsys as to whether AT&T  
8 Mobility has infringed or infringes any valid and enforceable claim of the '273  
9 Patent.

10           24. AT&T Mobility requests a judicial determination and declaration of  
11 the respective rights and duties of the parties on the disputes recited in paragraphs  
12 19-23 above. Such a determination and declaration are necessary and appropriate  
13 at this time so that the parties may ascertain their respective rights and duties in  
14 this regard.

15                   **Declaratory Judgment of Invalidity of the '273 Patent**

16           25. AT&T Mobility realleges and incorporates by reference the  
17 allegations of paragraphs 1-24 as though fully set forth herein.

18           26. This is an action for declaratory judgment of invalidity of all claims  
19 of the '273 Patent.

20           27. The '273 patent, and each claim thereof, is invalid for failure to  
21 comply with one or more of the requirements of Title 35, United States Code,  
22 including but not limited to 35 U.S.C. §§ 101, 102, 103 and/or 112.

23           28. There is an actual controversy, within the meaning of 28 U.S.C. §§  
24 2201 and 2202, between AT&T Mobility and Enovsys as to whether there exists  
25 any valid claim of the '273 Patent.

26           29. AT&T Mobility requests a judicial determination and declaration of  
27 the respective rights and duties of the parties on the disputes recited in paragraphs  
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1 25-28 above. Such a determination and declaration are necessary and appropriate  
2 at this time so the parties may ascertain their respective rights and duties in this  
3 regard.

4 **DEMAND FOR JURY TRIAL**

5 30. AT&T Mobility requests a trial by jury of all issues in this action  
6 triable by a jury.

7 **PRAYER FOR RELIEF**

8 AT&T Mobility prays for judgment as follows:

9 A. That this Court fully and finally dismiss Plaintiff's claims against  
10 AT&T Mobility and order that Plaintiff take nothing from AT&T Mobility;

11 B. That this Court find that AT&T Mobility has not infringed, in any  
12 manner, any claim of the '461 Patent or any claim of the '273 Patent;

13 C. That this Court find that the '461 Patent and the '273 Patent are  
14 invalid and/or unenforceable pursuant to Title 35 of the United States Code;

15 D. That this Court issue a declaration that the claims of the '461 Patent  
16 and the '273 Patent are invalid and/or unenforceable;

17 E. That this Court award AT&T Mobility all of its costs of this action;

18 F. That this Court find that this is an exceptional case and award AT&T  
19 Mobility its attorneys' fees pursuant to 35 U.S.C. § 285 or otherwise; and

20 G. That this Court grant AT&T Mobility such other and further relief as  
21 the Court may deem just and proper.  
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1 Dated: November 4, 2011

Respectfully submitted,

2 BAKER BOTTS L.L.P.

3  
4 By:   
5 Christopher W. Kennerly

6 Attorneys for Defendants and  
7 Counterclaimants  
8 AT&T MOBILITY LLC and  
9 AT&T MOBILITY II LLC  
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**CASE NAME: ENOVSYs LLC v. AT&T MOBILITY LLC, et al.**  
**CASE NO. 2:11-cv-05210-DDP (AGRx)**

**PROOF OF SERVICE**

I, Cynthia Short, declare and state as follows:

I am a citizen of the United States and employed in Santa Clara County, California, at the office of a member of the bar of this Court at whose direction this service was made. I am over the age of eighteen years and not a party to the within action. I am employed in the county where the service described below occurred. My business address is 620 Hansen Way, Palo Alto, California 94304.

I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence collected from me would be processed on the same day, with postage thereon fully prepaid and placed for deposit that day with the United States Postal Service.

On November 4, 2011, I served the following documents:

**DEFENDANTS AT&T MOBILITY LLC AND AT&T  
MOBILITY II LLC'S COUNTERCLAIMS AGAINST  
PLAINTIFF ENOVSYs**

<input type="checkbox"/>	by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
<input type="checkbox"/>	by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Palo Alto, California addressed as set forth below.
<input type="checkbox"/>	by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
<input checked="" type="checkbox"/>	by causing the document(s) listed above to be personally delivered to the person(s) at the address(es) set forth below.
<input type="checkbox"/>	by transmitting via electronic mail the document(s) listed above to each of the person(s) as set forth below.



